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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,330

09/30/2003

Mark A. Chovan

11703.4

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7590

09/16/2004

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EXAMINER

MAI, HUY KIM

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,330

Applicant(s)

CHOVAN ET AL

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12-18,20,21,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 2,11,19 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Oath/Declaration*

1. The declaration filed on Sept. 30, 2003 is acceptable.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3-10,12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al (5,307,523) in view of Frank (4,162,542).

Lewis et al discloses a protective eyewear 11, comprising first and second eyepieces 12,13 formed of uniform material, wherein said first and second eyepieces each comprise an eye cup and a lens integrally formed with said eye cup to comprise a unitary eye cup/lens combination, and a nose bridge coupled to each of said first and second eyepieces, said nose bridge comprising first and second supports and an elevated rise that reduces blockage of ultraviolet light from the nose and brow area of a wearer when attached, However Lewis et al does not disclose the nose bridge removably coupled to the eyepieces as claimed. Frank discloses eye protectors wherein the nose bridge removably coupled to the eyepieces for the same purposes of as disclosed by the applicant. Since Lewis et al and Frank are both from the same filed of endeavor, the purpose disclosed by Frank would have been recognized in the pertinent art of Lewis et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the nose bridge in the Lewis et al reference by forming a nose

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bridge removably coupled to the eye pieces in light of Frank's teachings for the same purpose as disclosed by Frank as the same as the applicant does.

4. Claims 20,21,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al in view of Frank as applied to claims 1,3-10,12-18 above, and further in view of Haslbeck (4,348,775).

The claimed invention in claims 20,21,23,24 are disclosed by Lewis et al in view of Frank wherein the nose bridge removably coupled to the eye pieces instead of the adjusting eyepieces as now claimed. Haslbeck discloses the eye protector two adjusting eye pieces relative to the nose bridge for the purpose of adjusting the eye pieces relative to the nose bridge. Therefore it would have been obvious to a person having ordinary skill in this art to modify the removable eye pieces of Lewis et al in view of Frank by forming removable adjusting eye pieces in light of Haslbeck's teaching for removably adjusting the eye pieces individually as the same as the applicant does.

*Allowable Subject Matter*

5. Claim 25 is allowed.

6. Claims 2,11,19,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.



Huy Mai  
Primary Examiner  
Art Unit 2873

HKM/  
September 11, 2004